

104TH CONGRESS  
2D SESSION

# H. R. 3005

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IN THE SENATE OF THE UNITED STATES

JUNE 20, 1996

Received

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## AN ACT

To amend the Federal securities laws in order to promote efficiency and capital formation in the financial markets, and to amend the Investment Company Act of 1940 to promote more efficient management of mutual funds, protect investors, and provide more effective and less burdensome regulation.

1        *Be it enacted by the Senate and House of Representa-*  
 2        *tives of the United States of America in Congress assembled,*

3        **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4        (a) SHORT TITLE.—This Act may be cited as the  
 5        “Securities Amendments of 1996”.

6        (b) TABLE OF CONTENTS.—The table of contents of  
 7        this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CAPITAL MARKETS DEREGULATION AND  
LIBERALIZATION

Sec. 101. Short title.  
 Sec. 102. Creation of national securities markets.  
 Sec. 103. Margin requirements.  
 Sec. 104. Prospectus delivery.  
 Sec. 105. Exemptive authority.  
 Sec. 106. Promotion of efficiency, competition, and capital formation.  
 Sec. 107. Privatization of EDGAR.  
 Sec. 108. Coordination of Examining Authorities.  
 Sec. 109. Foreign press conferences.  
 Sec. 110. Report on Trust Indenture Act of 1939.

TITLE II—INVESTMENT COMPANY ACT AMENDMENTS

Sec. 201. Short title.  
 Sec. 202. Funds of funds.  
 Sec. 203. Registration of securities.  
 Sec. 204. Investment company advertising prospectus.  
 Sec. 205. Variable insurance contracts.  
 Sec. 206. Reports to the Commission and shareholders.  
 Sec. 207. Books, records and inspections.  
 Sec. 208. Investment company names.  
 Sec. 209. Exceptions from definition of investment company.

TITLE III—SECURITIES AND EXCHANGE COMMISSION  
AUTHORIZATION

Sec. 301. Short title.  
 Sec. 302. Purposes.  
 Sec. 303. Authorization of appropriations.  
 Sec. 304. Registration fees.  
 Sec. 305. Transaction fees.  
 Sec. 306. Time for payment.  
 Sec. 307. Sense of the Congress concerning fees.

1 **TITLE I—CAPITAL MARKETS DE-**  
2 **REGULATION AND LIBERAL-**  
3 **IZATION**

4 **SEC. 101. SHORT TITLE.**

5 This title may be cited as the “Capital Markets De-  
6 regulation and Liberalization Act of 1996”.

7 **SEC. 102. CREATION OF NATIONAL SECURITIES MARKETS.**

8 (a) SECURITIES ACT OF 1933.—

9 (1) AMENDMENT.—Section 18 of the Securities  
10 Act of 1933 (15 U.S.C. 77r) is amended to read as  
11 follows:

12 **“SEC. 18. EXEMPTION FROM STATE REGULATION OF SECU-**  
13 **RITIES OFFERINGS.**

14 “(a) SCOPE OF EXEMPTION.—Except as otherwise  
15 provided in this section, no law, rule, regulation, or order,  
16 or other administrative action of any State or Territory  
17 of the United States, or the District of Columbia, or any  
18 political subdivision thereof—

19 “(1) requiring, or with respect to, registration  
20 or qualification of securities, or registration or quali-  
21 fication of securities transactions, shall directly or  
22 indirectly apply to a security that—

23 “(A) is a covered security; or

24 “(B) will be a covered security upon com-  
25 pletion of the transaction;

1 “(2) shall directly or indirectly prohibit, limit,  
2 or impose conditions upon the use of—

3 “(A) with respect to a covered security de-  
4 scribed in subsection (b)(1) or (c)(1)—

5 “(i) any offering document that is  
6 prepared by the issuer; or

7 “(ii) any offering document that is  
8 not prepared by the issuer if such offering  
9 document is required to be and is filed  
10 with the Commission or any national secu-  
11 rities organization registered under section  
12 15A of the Securities Exchange Act of  
13 1934 (15 U.S.C. 78o–3);

14 “(B) with respect to a covered security de-  
15 scribed in paragraph (2), (3), or (4) of sub-  
16 section (b), any offering document; or

17 “(C) any proxy statement, report to share-  
18 holders, or other disclosure document relating  
19 to a covered security or the issuer thereof that  
20 is required to be and is filed with the Commis-  
21 sion or any national securities organization reg-  
22 istered under section 15A of the Securities Ex-  
23 change Act of 1934 (15 U.S.C. 78o–3); or

24 “(3) shall directly or indirectly prohibit, limit,  
25 or impose conditions, based on the merits of such of-

1       fering or issuer, upon the offer or sale of any secu-  
2       rity described in paragraph (1).

3       “(b) COVERED SECURITIES.—For purposes of this  
4 section, the following are covered securities:

5               “(1) EXCLUSIVE FEDERAL REGISTRATION OF  
6       NATIONALLY TRADED SECURITIES.—A security is a  
7       covered security if such security is—

8               “(A) listed, or authorized for listing, on  
9       the New York Stock Exchange or the American  
10       Stock Exchange, or included or qualified for in-  
11       clusion in the National Market System of the  
12       National Association of Securities Dealers  
13       Automated Quotation System (or any successor  
14       to such entities);

15              “(B) listed, or authorized for listing, on a  
16       national securities exchange (or tier or segment  
17       thereof) that has listing standards that the  
18       Commission determines by rule (on its own ini-  
19       tiative or on the basis of a petition) are sub-  
20       stantially similar to the listing standards appli-  
21       cable to securities described in subparagraph  
22       (A); or

23              “(C) is a security of the same issuer that  
24       is equal in seniority or senior to a security de-  
25       scribed in subparagraph (A) or (B).

1           “(2) EXCLUSIVE FEDERAL REGISTRATION OF  
2       INVESTMENT COMPANIES.—A security is a covered  
3       security if such security is a security issued by an  
4       investment company that is registered under the In-  
5       vestment Company Act of 1940 (15 U.S.C. 80a et  
6       seq.).

7           “(3) SALES TO QUALIFIED PURCHASERS.—A  
8       security is a covered security with respect to the  
9       offer or sale of the security to qualified purchasers,  
10      as defined by the Commission by rule. In prescribing  
11      such rule, the Commission may define qualified pur-  
12      chaser differently with respect to different categories  
13      of securities, consistent with the public interest and  
14      the protection of investors.

15          “(4) EXEMPTION IN CONNECTION WITH CER-  
16      TAIN EXEMPT OFFERINGS.—A security is a covered  
17      security if—

18           “(A) the offer or sale of such security is  
19      exempt from registration under this title pursu-  
20      ant to section 4(1) or 4(3), and—

21           “(i) the issuer of such security files  
22      reports with the Commission pursuant to  
23      section 13 or 15(d) of the Securities Ex-  
24      change Act of 1934 (15 U.S.C. 78m,  
25      78o(d)); or

1 “(ii) the issuer is exempt from filing  
2 such reports;

3 “(B) such security is exempt from registra-  
4 tion under this title pursuant to section 4(4);

5 “(C) the offer or sale of such security is  
6 exempt from registration under this title pursu-  
7 ant to section 3(a), other than the offer or sale  
8 of a security that is exempt from such registra-  
9 tion pursuant to paragraph (4) or (11) of such  
10 section, except that a municipal security that is  
11 exempt from such registration pursuant to  
12 paragraph (2) of such section is not a covered  
13 security with respect to the offer or sale of such  
14 security in the State in which the issuer of such  
15 security is located; or

16 “(D) the offer or sale of such security is  
17 exempt from registration under this title pursu-  
18 ant to Commission rule or regulation under sec-  
19 tion 4(2) of this title.

20 “(c) CONDITIONALLY COVERED SECURITIES.—

21 “(1) FEDERALLY REGISTERED OFFERINGS.—

22 Subject to the limitations contained in paragraphs  
23 (2) and (3), a security is a covered security if—

1           “(A) the issuer of such security has (or  
2           will have upon conclusion of the transaction)  
3           total assets exceeding \$10,000,000;

4           “(B) such security is the subject of a reg-  
5           istration statement that is filed with the Com-  
6           mission pursuant to this title; and

7           “(C) the issuer files with such registration  
8           statement audited financial statements for each  
9           of the two most recent fiscal years of its oper-  
10          ations ending before the filing of the registra-  
11          tion statement.

12          “(2) LIMITATIONS FOR CERTAIN OFFERINGS.—  
13          Notwithstanding paragraph (1), a security is not a  
14          covered security if such security is—

15               “(A) a security of an issuer which is a  
16               blank check company (as defined in section 7(b)  
17               of this title), a partnership, a limited liability  
18               company, or a direct participation investment  
19               program;

20               “(B) a penny stock (as such term is de-  
21               fined in section 3(a)(51) of the Securities Ex-  
22               change Act of 1934 (15 U.S.C. 78c(a)(51)); or

23               “(C) a security issued in an offering relat-  
24               ing to a rollup transaction (as such term is de-



1           fined in paragraphs (4) and (5) of section 14(h)  
2           of such Act (15 U.S.C. 78n(h)(4), (5)).

3           “(3) LIMITATIONS BASED ON MISCONDUCT.—  
4       Notwithstanding paragraph (1), a security is not a  
5       covered security—

6           “(A) with respect to any State, if the is-  
7       suer, or a principal officer or principal share-  
8       holder thereof—

9           “(i) is subject to a statutory disquali-  
10       fication, as defined in subparagraph (A),  
11       (B), (C), or (D) of section 3(a)(39) of the  
12       Securities Exchange Act of 1934 (15  
13       U.S.C. 78c(a)(39));

14          “(ii) has been convicted within 5 years  
15       prior to the offering of any felony under  
16       Federal or State law in connection with  
17       the offer, purchase, or sale of any security,  
18       or any felony under Federal or State law  
19       involving fraud or deceit; or

20          “(iii) is currently named in and sub-  
21       ject to any order, judgment, or decree of  
22       any court of competent jurisdiction acting  
23       pursuant to Federal or State law tempo-  
24       rarily or permanently restraining or enjoin-  
25       ing such issuer, officer, or shareholder

1 from engaging in or continuing any con-  
2 duct or practice in connection with a secu-  
3 rity; or

4 “(B) with respect to a particular State, if  
5 the issuer, or a principal officer or principal  
6 shareholder thereof—

7 “(i) has filed a registration statement  
8 which is the subject of a currently effective  
9 stop order entered pursuant to that State’s  
10 securities laws within 5 years prior to the  
11 offering;

12 “(ii) is currently named in and subject  
13 to any administrative enforcement order or  
14 judgment of that State’s securities com-  
15 mission (or any agency or office perform-  
16 ing like functions) entered within 5 years  
17 prior to the offering, or is currently named  
18 in and subject to any other administrative  
19 enforcement order or judgment of that  
20 State entered within 5 years prior to the  
21 offering that finds fraud or deceit; or

22 “(iii) is currently named in and sub-  
23 ject to any administrative enforcement  
24 order or judgment of that State which pro-  
25 hibits or denies registration, or revokes the

1 use of any exemption from registration, in  
2 connection with the offer, purchase, or sale  
3 of securities.

4 “(4) EXCEPTIONS TO LIMITATIONS.—

5 (A) DEBT SECURITY EXEMPTION.—The  
6 limitations in paragraph (2)(A) shall not apply  
7 with respect to the debt securities of any issuer  
8 that is a partnership or limited liability com-  
9 pany, provided that (i) the issuer is either a  
10 registered dealer or an affiliate of such a dealer,  
11 (ii) the issuer has, both before and after the of-  
12 fering, capital or equity (each computed in ac-  
13 cordance with United States generally accepted  
14 accounting principles) of not less than  
15 \$75,000,000, and (iii) if the issuer is not a reg-  
16 istered dealer, such issuer does not use the pro-  
17 ceeds of the offering primarily to fund the non-  
18 financial business of the issuer or any of its af-  
19 filiates that are not registered dealers.

20 “(B) MISCONDUCT EXEMPTIONS.—The  
21 limitations in paragraph (3)(A) shall not apply  
22 if the Commission has exempted the subject  
23 person from the application of such paragraph  
24 by rule or order, and the limitations in para-  
25 graph (3)(B) shall not apply if the securities

1 commission (or any agency or office performing  
2 like functions) of the affected State has exempt-  
3 ed the subject person from the application of  
4 such paragraph by rule or order.

5 “(C) REASONABLE STEPS.—The provisions  
6 of paragraph (3) shall not apply if the issuer  
7 has taken reasonable steps to ascertain whether  
8 any principal officer or principal shareholder is  
9 subject to such paragraph, and such steps do  
10 not reveal a person who is subject to such para-  
11 graph. An issuer shall be considered to have  
12 taken reasonable steps if such issuer or its  
13 agent has conducted a search of any centralized  
14 data bases that the Commission may designate  
15 by rule, and has received an affidavit under  
16 oath by each such principal officer or principal  
17 shareholder stating that such officer or share-  
18 holder is not subject to the provisions of para-  
19 graph (3).

20 “(D) EFFECT OF LIMITATIONS ON REM-  
21 EDIES.—Notwithstanding paragraph (3), an is-  
22 suer shall not be subject to a right of rescission  
23 under State securities laws solely as a result of  
24 the operation of such paragraph.

1           “(5) NO EFFECT UNDER SUBSECTION (B).—No  
2           limitation under this subsection shall affect the  
3           treatment of a security that qualifies as a covered  
4           security under subsection (b).

5           “(d) PRESERVATION OF AUTHORITY.—

6           “(1) FRAUD AUTHORITY.—Consistent with this  
7           section, the securities commission (or any agency or  
8           office performing like functions) of any State or Ter-  
9           ritory of the United States, or the District of Colum-  
10          bia, shall retain jurisdiction under the laws of such  
11          State, Territory, or District to investigate and bring  
12          enforcement actions with respect to fraud or deceit  
13          in connection with securities or securities trans-  
14          actions.

15          “(2) PRESERVATION OF FILING REQUIRE-  
16          MENTS.—

17                 “(A) NOTICE FILINGS PERMITTED.—Noth-  
18                 ing contained in this section shall prohibit the  
19                 securities commission (or any agency or office  
20                 performing like functions) of any State or Ter-  
21                 ritory of the United States, or the District of  
22                 Columbia, from requiring the filing of any docu-  
23                 ments filed with the Commission pursuant to  
24                 this title solely for notice purposes, together  
25                 with any required fee.

1           “(B) PRESERVATION OF FEES.—Until oth-  
2           erwise provided by State law enacted after the  
3           date of enactment of the Securities Amend-  
4           ments of 1996, filing or registration fees with  
5           respect to securities or securities transactions  
6           may continue to be collected in amounts deter-  
7           mined pursuant to State law as in effect on the  
8           day before such date.

9           “(C) FEES NOT PERMITTED ON LISTED  
10          SECURITIES.—Notwithstanding subparagraphs  
11          (A) and (B), no filing or fee may be required  
12          with respect to any security that is a covered  
13          security pursuant to subsection (b)(1) of this  
14          section, or will be such a covered security upon  
15          completion of the transaction, or is a security of  
16          the same issuer that is equal in seniority or  
17          senior to a security that is a covered security  
18          pursuant to such subsection.

19          “(3) ENFORCEMENT OF REQUIREMENTS.—  
20          Nothing in this section shall prohibit the securities  
21          commission (or any agency or office performing like  
22          functions) of any State or Territory of the United  
23          States, or the District of Columbia, from suspending  
24          the offer or sale of securities within such State, Ter-  
25          ritory, or District as a result of the failure to submit

1 any filing or fee required under law and permitted  
2 under this section.

3 “(e) DEFINITIONS.—For purposes of this section:

4 “(1) PRINCIPAL OFFICER.—The term ‘principal  
5 officer’ means a director, chief executive officer, or  
6 chief financial officer of an issuer, or any other offi-  
7 cer performing like functions.

8 “(2) PRINCIPAL SHAREHOLDER.—The term  
9 ‘principal shareholder’ means any person who is di-  
10 rectly or indirectly the beneficial owner of more than  
11 20 percent of any class of equity security of an is-  
12 suer. When two or more persons act as a partner-  
13 ship, limited partnership, syndicate, or other group  
14 for the purpose of acquiring, holding, or disposing of  
15 securities of an issuer, such syndicate or group shall  
16 be deemed a ‘person’ for purposes of this paragraph.  
17 In determining, for purposes of this paragraph, any  
18 percentage of a class of any security, such class shall  
19 be deemed to consist of the amount of the outstand-  
20 ing securities of such class, exclusive of any securi-  
21 ties of such class held by or for the account of the  
22 issuer or a subsidiary of the issuer.

23 “(3) OFFERING DOCUMENT.—The term ‘offer-  
24 ing document’ has the meaning given the term ‘pro-  
25 spectus’ by section 2(10), but without regard to the

1 provisions of clauses (a) and (b) of such section, ex-  
2 cept that, with respect to a security described in  
3 subsection (b)(2) of this section, such term also in-  
4 cludes a communication that is not deemed to offer  
5 such a security pursuant to a rule of the Commis-  
6 sion.

7 “(4) PREPARED BY THE ISSUER.—Within 6  
8 months after the date of enactment of the Securities  
9 Amendments of 1996, the Commission shall, by rule,  
10 define the term ‘prepared by the issuer’ for purposes  
11 of this section.”.

12 (2) STUDY OF UNIFORMITY.—The Securities  
13 Exchange Commission shall conduct a study after  
14 consultation with States, issuers, brokers, and deal-  
15 ers on the extent to which uniformity of State regu-  
16 latory requirements for securities or securities trans-  
17 actions has been achieved for securities that are not  
18 covered securities (within the meaning of section 18  
19 of the Securities Act of 1933 as amended by para-  
20 graph (1) of this subsection). Such study shall spe-  
21 cifically focus on the impact of such uniformity or  
22 lack thereof on the cost of capital, innovation and  
23 technological development in securities markets, and  
24 duplicative regulation with respect to securities issu-  
25 ers (including small business), brokers, and dealers



1 and the effect on investor protection. The Commis-  
2 sion shall submit to the Congress a report on the re-  
3 sults of such study within one year after the date of  
4 enactment of this Act.

5 (b) BROKER/DEALER REGULATION.—

6 (1) AMENDMENT.—Section 15 of the Securities  
7 Exchange Act of 1934 (15 U.S.C. 78o) is amended  
8 by adding at the end the following new subsection:

9 “(h) LIMITATIONS ON STATE LAW.—

10 “(1) CAPITAL, MARGIN, BOOKS AND RECORDS,  
11 BONDING, AND REPORTS.—No law, rule, regulation,  
12 or order, or other administrative action of any State  
13 or political subdivision thereof shall establish capital,  
14 custody, margin, financial responsibility, making and  
15 keeping records, bonding, or financial or operational  
16 reporting requirements for brokers, dealers, municipi-  
17 pal securities dealers, government securities brokers,  
18 or government securities dealers that differ from, or  
19 are in addition to, the requirements in those areas  
20 established under this title. The Commission shall  
21 consult periodically the securities commissions (or  
22 any agency or office performing like functions) of  
23 the States concerning the adequacy of such require-  
24 ments as established under this title.

1           “(2) EXEMPTION TO PERMIT SERVICE TO CUS-  
2           TOMERS.—No law, rule, regulation, or order, or  
3           other administrative action of any State or political  
4           subdivision thereof shall require an associated per-  
5           son to register with such State prior to effecting a  
6           transaction described in paragraph (3) for a cus-  
7           tomer in such State if—

8                   “(A) such transaction is effected on behalf  
9                   of a customer that, for 30 days prior to the day  
10                  of the transaction, maintains an account with  
11                  the broker or dealer;

12                  “(B) such associated person is not ineli-  
13                  gible to register with such State for any reason  
14                  other than such a transaction;

15                  “(C) such associated person is registered  
16                  with a registered securities association and at  
17                  least one State; and

18                  “(D) the broker or dealer with which such  
19                  person is associated is registered with such  
20                  State.

21           “(3) DESCRIBED TRANSACTIONS.—A trans-  
22           action is described in this paragraph if—

23                   “(A) such transaction is effected by an as-  
24                   sociated person (i) to which the customer was  
25                   assigned for 14 days prior to the day of the

1 transaction, and (ii) who is registered with a  
2 State in which the customer was a resident or  
3 was present for at least 30 consecutive days  
4 during the one-year period prior to the trans-  
5 action; except that, if the customer is present in  
6 another State for 30 or more consecutive days  
7 or has permanently changed his or her resi-  
8 dence to another State, such transaction is not  
9 described in this subparagraph unless the asso-  
10 ciated person files with such State an applica-  
11 tion for registration within 10 calendar days of  
12 the later of the date of the transaction or the  
13 date of the discovery of the presence of the cus-  
14 tomer in the State for 30 or more consecutive  
15 days or the change in the customer's residence;

16 “(B) the transaction is effected within the  
17 period beginning on the date on which such as-  
18 sociated person files with the State in which the  
19 transaction is effected an application for reg-  
20 istration and ending on the earlier of (i) 60  
21 days after the date the application is filed, or  
22 (ii) the time at which such State notifies the as-  
23 sociated person that it has denied the applica-  
24 tion for registration or has stayed the pendency  
25 of the application for cause; or

1           “(C) the transaction is one of 10 or fewer  
2           transactions in a calendar year (excluding any  
3           transactions described in subparagraph (A) or  
4           (B)) which the associated person effects in the  
5           States in which the associated person is not  
6           registered.

7           “(4) ALTERNATE ASSOCIATED PERSONS.—For  
8           purposes of paragraph (3)(A)(ii), each of up to 3 as-  
9           sociated persons who are designated to effect trans-  
10          actions during the absence or unavailability of the  
11          principal associated person for a customer may be  
12          treated as an associated person to which such cus-  
13          tomer is assigned for purposes of such paragraph.”.

14          (2) STUDY.—Within 6 months after the date of  
15          enactment of this Act, the Commission, after con-  
16          sultation with registered securities associations, na-  
17          tional securities exchanges, and States, shall conduct  
18          a study of—

19                 (A) the impact of disparate State licensing  
20                 requirements on associated persons of reg-  
21                 istered brokers or dealers; and

22                 (B) methods for States to attain uniform  
23                 licensing requirements for such persons.

24          (3) REPORT.—Within one year after the date of  
25          enactment of this Act, the Commission shall submit

1 to the Congress a report on the study conducted  
2 under paragraph (2). Such report shall include rec-  
3 ommendations concerning appropriate methods de-  
4 scribed in paragraph (2)(B), including any necessary  
5 legislative changes to implement such recommenda-  
6 tions.

7 (4) TECHNICAL AMENDMENT.—Section 28(a) of  
8 the Securities Exchange Act of 1934 (15 U.S.C.  
9 78bb(a)) is amended by striking “Nothing” and in-  
10 sserting “Except as otherwise specifically provided  
11 elsewhere in this title, nothing”.

12 **SEC. 103. MARGIN REQUIREMENTS.**

13 (a) MARGIN REQUIREMENTS.—

14 (1) EXTENSIONS OF CREDIT BY BROKER-DEAL-  
15 ERS.—Section 7(c) of the Securities Exchange Act  
16 of 1934 (15 U.S.C. 78g(c)) is amended to read as  
17 follows:

18 “(c) UNLAWFUL CREDIT EXTENSION TO CUS-  
19 TOMERS.—

20 “(1) PROHIBITION.—It shall be unlawful for  
21 any member of a national securities exchange or any  
22 broker or dealer, directly or indirectly, to extend or  
23 maintain credit or arrange for the extension or  
24 maintenance of credit to or for any customer—

1           “(A) on any security (other than an ex-  
2           empted security), in contravention of the rules  
3           and regulations which the Board of Governors  
4           of the Federal Reserve System shall prescribe  
5           under subsections (a) and (b) of this section;

6           “(B) without collateral or on any collateral  
7           other than securities, except in accordance with  
8           such rules and regulations as the Board of Gov-  
9           ernors of the Federal Reserve System may pre-  
10          scribe—

11                 “(i) to permit under specified condi-  
12                 tions and for a limited period any such  
13                 member, broker, or dealer to maintain a  
14                 credit initially extended in conformity with  
15                 the rules and regulations of the Board of  
16                 governors of the Federal Reserve System;  
17                 and

18                 “(ii) to permit the extension or main-  
19                 tenance of credit in cases where the exten-  
20                 sion or maintenance of credit is not for the  
21                 purpose of purchasing or carrying securi-  
22                 ties or of evading or circumventing the  
23                 provisions of subparagraph (A) of this  
24                 paragraph.

1           “(2) EXCEPTION.—This subsection and the  
 2           rules and regulations thereunder shall not apply to  
 3           any credit extended, maintained, or arranged by a  
 4           member of a national securities exchange or a  
 5           broker or dealer to or for a member of a national  
 6           securities exchange or a registered broker or deal-  
 7           er—

8                   “(A) a substantial portion of whose busi-  
 9                   ness consists of transactions with persons other  
 10                  than brokers or dealers; or

11                  “(B) to finance its activities as a market  
 12                  maker or an underwriter;

13           except that the Board of Governors of the Federal  
 14           Reserve System may impose such rules and regula-  
 15           tions, in whole or in part, on any credit otherwise  
 16           exempted by this paragraph if it determines that  
 17           such action is necessary or appropriate in the public  
 18           interest or for the protection of investors.”.

19           (2) EXTENSIONS OF CREDIT BY OTHER LEND-  
 20           ERS.—Section 7(d) of the Securities Exchange Act  
 21           of 1934 (78 U.S.C. 78g(d)) is amended to read as  
 22           follows:

23           “(d) UNLAWFUL CREDIT EXTENSION IN VIOLATION  
 24           OF RULES AND REGULATIONS; EXCEPTION TO APPLICA-  
 25           TION OF RULES, ETC.—

1           “(1) PROHIBITION.—It shall be unlawful for  
2           any person not subject to subsection (c) of this sec-  
3           tion to extend or maintain credit or to arrange for  
4           the extension or maintenance of credit for the pur-  
5           pose of purchasing or carrying any security, in con-  
6           travention of such rules and regulations as the  
7           Board of Governors of the Federal Reserve System  
8           shall prescribe to prevent the excessive use of credit  
9           for the purchasing or carrying of or trading in secu-  
10          rities in circumvention of the other provisions of this  
11          section. Such rules and regulations may impose upon  
12          all loans made for the purpose of purchasing or car-  
13          rying securities limitations similar to those imposed  
14          upon members, brokers, or dealers by subsection (c)  
15          of this section and the rules and regulations there-  
16          under.

17          “(2) EXCEPTIONS.—This subsection and the  
18          rules and regulations thereunder shall not apply to  
19          any credit extended, maintained, or arranged—

20                 “(A) by a person not in the ordinary  
21                 course of business;

22                 “(B) on an exempted security;

23                 “(C) to or for a member of a national se-  
24                 curities exchange or a registered broker or deal-  
25                 er—



1                   “(i) a substantial portion of whose  
2                   business consists of transactions with per-  
3                   sons other than brokers or dealers; or

4                   “(ii) to finance its activities as a mar-  
5                   ket maker or an underwriter;

6                   “(D) by a bank on a security other than  
7                   an equity security; or

8                   “(E) as the Board of Governors of the  
9                   Federal Reserve System shall, by such rules,  
10                  regulations, or orders as it may deem necessary  
11                  or appropriate in the public interest or for the  
12                  protection of investors, exempt, either uncondi-  
13                  tionally or upon specified terms and conditions  
14                  or for stated periods, from the operation of this  
15                  subsection and the rules and regulations there-  
16                  under;

17                  except that the Board of Governors of the Federal  
18                  Reserve System may impose such rules and regula-  
19                  tions, in whole or in part, on any credit otherwise  
20                  exempted by subparagraph (C) of this paragraph if  
21                  it determines that such action is necessary or appro-  
22                  priate in the public interest or for the protection of  
23                  investors.”.

1 (b) BORROWING BY MEMBERS, BROKERS, AND  
2 DEALERS.—Section 8 of the Securities Exchange Act of  
3 1934 (15 U.S.C. 78h) is amended—

4 (1) by striking subsection (a), and

5 (2) by redesignating subsections (b) and (c) as  
6 subsections (a) and (b), respectively.

7 **SEC. 104. PROSPECTUS DELIVERY.**

8 (a) REPORT ON ELECTRONIC DELIVERY.—Within six  
9 months after the date of enactment of this Act, the Com-  
10 mission shall report to Congress on the steps the Commis-  
11 sion has taken, or anticipates taking, to facilitate the elec-  
12 tronic delivery of prospectuses to institutional and other  
13 investors.

14 (b) REPORT ON ADVISORY COMMITTEE REC-  
15 OMMENDATIONS.—Within one year after the date of en-  
16 actment of this Act, the Commission shall report to Con-  
17 gress on the Commission's views on the recommendations  
18 of the Advisory Committee on Capital Formation, includ-  
19 ing any actions taken to implement the recommendations  
20 of the Advisory Committee.

21 **SEC. 105. EXEMPTIVE AUTHORITY.**

22 (a) GENERAL EXEMPTIVE AUTHORITY UNDER THE  
23 SECURITIES ACT OF 1933.—Title I of the Securities Act  
24 of 1933 (15 U.S.C. 77a et seq.) is amended by adding  
25 at the end the following new section:

1   **“SEC. 28. GENERAL EXEMPTIVE AUTHORITY.**

2           “The Commission, by rules and regulations, may con-  
3   ditionally or unconditionally exempt any person, security,  
4   or transaction, or any class or classes of persons, securi-  
5   ties, or transactions, from any provision or provisions of  
6   this title or of any rule or regulation thereunder, to the  
7   extent that such exemption is necessary or appropriate in  
8   the public interest, and is consistent with the protection  
9   of investors.”.

10          (b) GENERAL EXEMPTIVE AUTHORITY UNDER THE  
11   SECURITIES EXCHANGE ACT OF 1934.—Title I of the Se-  
12   curities Exchange Act of 1934 (15 U.S.C. 78a et seq.)  
13   is amended by adding at the end the following new section:  
14   **“SEC. 36. GENERAL EXEMPTIVE AUTHORITY.**

15          “(a) AUTHORITY.—Except as provided in subsection  
16   (b) but notwithstanding any other provision of this title,  
17   the Commission, by rule, regulation, or order, may condi-  
18   tionally or unconditionally exempt any person, security, or  
19   transaction, or any class or classes of persons, securities,  
20   or transactions, from any provision or provisions of this  
21   title or of any rule or regulation thereunder, to the extent  
22   that such exemption is necessary or appropriate in the  
23   public interest, and is consistent with the protection of in-  
24   vestors. The Commission shall by rules and regulations de-  
25   termine the procedures under which an exemptive order  
26   under this section shall be granted and may, in its sole

1 discretion, decline to entertain any application for an  
2 order of exemption under this section.

3 “(b) LIMITATION.—The Commission shall not exer-  
4 cise authority under this section to exempt any person,  
5 security, or transaction, or any class or classes of persons,  
6 securities, or transactions, from section 15C of this title  
7 or the rules or regulations thereunder, or (for purposes  
8 of such section 15C or such rules or regulations) from the  
9 definitions in paragraphs (42) through (45) of section 3(a)  
10 of this title.”.

11 **SEC. 106. PROMOTION OF EFFICIENCY, COMPETITION, AND**  
12 **CAPITAL FORMATION.**

13 (a) SECURITIES ACT OF 1933.—Section 2 of the Se-  
14 curities Act of 1933 (15 U.S.C. 77b) is amended—

15 (1) by inserting “(a) DEFINITIONS.—” after  
16 “SEC. 2.”; and

17 (2) by adding at the end the following new sub-  
18 section:

19 “(b) CONSIDERATION OF PROMOTION OF EFFI-  
20 CIENCY, COMPETITION, AND CAPITAL FORMATION.—  
21 Whenever pursuant to this title the Commission is en-  
22 gaged in rulemaking and is required to consider or deter-  
23 mine whether an action is necessary or appropriate in the  
24 public interest, the Commission shall also consider, in ad-  
25 dition to the protection of investors, whether the action

1 will promote efficiency, competition, and capital forma-  
2 tion.”.

3 (b) SECURITIES EXCHANGE ACT of 1934.—Section  
4 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c)  
5 is amended by adding at the end the following new sub-  
6 section:

7 “(f) CONSIDERATION OF PROMOTION OF EFFI-  
8 CIENCY, COMPETITION, AND CAPITAL FORMATION.—  
9 Whenever pursuant to this title the Commission is en-  
10 gaged in rulemaking, or in the review of a rule of a self-  
11 regulatory organization, and is required to consider or de-  
12 termine whether an action is necessary or appropriate in  
13 the public interest, the Commission shall also consider, in  
14 addition to the protection of investors, whether the action  
15 will promote efficiency, competition, and capital forma-  
16 tion.”.

17 (c) INVESTMENT COMPANY ACT of 1940.—Section 2  
18 of the Investment Company Act of 1940 (15 U.S.C. 80a-  
19 2) is amended by adding at the end the following new sub-  
20 section:

21 “(e) CONSIDERATION OF PROMOTION OF EFFI-  
22 CIENCY, COMPETITION, AND CAPITAL FORMATION.—  
23 Whenever pursuant to this title the Commission is en-  
24 gaged in rulemaking and is required to consider or deter-  
25 mine whether an action is consistent with the public inter-

1 est, the Commission shall also consider, in addition to the  
2 protection of investors, whether the action will promote ef-  
3 ficiency, competition, and capital formation.”.

4 **SEC. 107. PRIVATIZATION OF EDGAR.**

5 (a) EXAMINATION.—The Securities and Exchange  
6 Commission shall examine proposals for the privatization  
7 of the EDGAR system. Such examination shall promote  
8 competition in the automation and rapid collection and  
9 dissemination of information required to be disclosed.  
10 Such examination shall include proposals that maintain  
11 free public access to data filings in the EDGAR system.

12 (b) REVIEW AND REPORT.—Within 180 days after  
13 the date of enactment of this Act, the Commission shall  
14 submit to the Congress a report on the examination under  
15 subsection (a). Such report shall include such rec-  
16 ommendations for such legislative action as may be nec-  
17 essary to implement the proposal that the Commission de-  
18 termines most effectively achieves the objectives described  
19 in subsection (a).

20 **SEC. 108. COORDINATION OF EXAMINING AUTHORITIES.**

21 (a) AMENDMENTS.—Section 17 of the Securities Ex-  
22 change Act of 1934 (15 U.S.C. 78q) is amended by adding  
23 at the end the following new subsection:

24 “(i) COORDINATION OF EXAMINING AUTHORITIES.—

1           “(1) ELIMINATION OF DUPLICATION.—The  
2           Commission and the examining authorities, through  
3           cooperation and coordination of examination and  
4           oversight as required by this subsection, shall elimi-  
5           nate any unnecessary and burdensome duplication in  
6           the examination process.

7           “(2) PLANNING CONFERENCES.—

8                   “(A) The Commission and the examining  
9                   authorities shall meet at least annually for a  
10                  national general planning conference to discuss  
11                  coordination of examination schedules and pri-  
12                  orities and other areas of interest relevant to  
13                  examination coordination and cooperation.

14                  “(B) Within each geographic region des-  
15                  ignated by the Commission, the Commission  
16                  and the relevant examining authorities shall  
17                  meet at least annually for a regional planning  
18                  conference to discuss examination schedules and  
19                  priorities and other areas of related interest,  
20                  and to encourage information-sharing and to  
21                  avoid unnecessary duplication of examinations.

22           “(3) COORDINATION TRACKING SYSTEM FOR  
23           BROKER-DEALER EXAMINATIONS.—

24                   “(A) The Commission and the examining  
25                  authorities shall prepare, on a periodic basis in

1 a uniform computerized format, information on  
2 registered broker and dealer examinations and  
3 shall submit such information to the Commis-  
4 sion.

5 “(B) The Commission shall maintain a  
6 computerized database of consolidated examina-  
7 tion information to be used for examination  
8 planning and scheduling and for monitoring co-  
9 ordination of registered broker and dealer ex-  
10 aminations under this section.

11 “(4) COORDINATION OF EXAMINATIONS.—

12 “(A) The examining authorities shall share  
13 among themselves such information, including  
14 reports of examinations, customer complaint in-  
15 formation, and other non-public regulatory in-  
16 formation, as appropriate to foster a coordi-  
17 nated approach to regulatory oversight of reg-  
18 istered brokers and dealers subject to examina-  
19 tion by more than one examining authority.

20 “(B) To the extent practicable, the exam-  
21 ining authorities shall assure that each reg-  
22 istered broker and dealer subject to examina-  
23 tion by more than one examining authority that  
24 requests a coordinated examination shall have  
25 all requested aspects of the examination con-



1           ducted simultaneously and without duplication  
2           of the areas covered. The examining authorities  
3           shall also prepare an advance schedule of all  
4           such coordinated examinations.

5           “(5) PROHIBITED NON-COORDINATED EXAMI-  
6           NATIONS.—Any examining authority that does not  
7           participate in a coordinated examination pursuant to  
8           paragraph (4) of this subsection shall not conduct a  
9           routine examination other than a coordinated exam-  
10          ination of that broker or dealer within 9 months of  
11          the conclusion of a scheduled coordinated examina-  
12          tion.

13          “(6) EXAMINATIONS FOR CAUSE.—At any time,  
14          any examining authority may conduct an examina-  
15          tion for cause of any broker or dealer subject to its  
16          jurisdiction.

17          “(7) BROKER-DEALER EXAMINATION EVALUA-  
18          TION PANEL.—The Commission shall establish an  
19          examination evaluation panel composed of represent-  
20          atives of registered brokers and dealers that are  
21          members of more than one self-regulatory organiza-  
22          tion that conducts routine examinations. Prior to  
23          each national general planning conference required  
24          by paragraph (2)(A) of this subsection, the Commis-  
25          sion shall convene the examination evaluation panel

1 to review consolidated and statistical information on  
2 the coordination of examinations and information on  
3 examinations that are not coordinated, including the  
4 findings of Commission examiners on the effective-  
5 ness of the examining authorities in achieving co-  
6 ordinated examinations. The Commission shall  
7 present any findings and recommendations of the ex-  
8 amination evaluation panel to the next meeting of  
9 the national general planning conference, and shall  
10 report back to the examination evaluation panel on  
11 the actions taken by the examining authorities re-  
12 garding those findings and recommendations. The  
13 examination evaluation panel shall not be subject to  
14 the Federal Advisory Committee Act (5 U.S.C.  
15 App.).

16 “(8) REPORT TO CONGRESS.—Within one year  
17 after the date of enactment of this Act, the Commis-  
18 sion shall report to the Congress on the progress it  
19 and the examining authorities have made in reduc-  
20 ing duplication and improving coordination in reg-  
21 istered broker and dealer examinations, and on the  
22 activities of the examination evaluation panel. Such  
23 report shall also indicate whether the Commission  
24 has identified additional redundancies that have  
25 failed to be addressed in the coordination of examin-

1       ing authorities, or any recommendations of the ex-  
2       amination evaluation panel established under para-  
3       graph (7) of this subsection that have not been ad-  
4       dressed by the examining authorities or the Commis-  
5       sion.”.

6       (b) DEFINITION.—Section 3(a) of the Securities Ex-  
7       change Act of 1934 (15 U.S.C. 78e) is amended by adding  
8       at the end the following paragraph:

9               “(54) The term ‘examining authority’ means  
10       any self-regulatory organization registered with the  
11       Commission under this title (other than registered  
12       clearing agencies) with the authority to examine, in-  
13       spect, and otherwise oversee the activities of a reg-  
14       istered broker or dealer.”.

15   **SEC. 109. FOREIGN PRESS CONFERENCES.**

16       No later than one year after the date of enactment  
17       of this Act, the Commission shall adopt rules under the  
18       Securities Act of 1933 concerning the status under the  
19       registration provisions of the Securities Act of 1933 of for-  
20       eign press conferences and foreign press releases by per-  
21       sons engaged in the offer and sale of securities.

22   **SEC. 110. REPORT ON TRUST INDENTURE ACT OF 1939.**

23       Within 6 months after the date of enactment of this  
24       Act, the Securities and Exchange Commission shall sub-  
25       mit to the Congress a report on the benefits of, the con-

1 tinuing need for, and, if necessary, options for the modi-  
 2 fication or elimination of, the Trust Indenture Act of 1939  
 3 (15 U.S.C. 77aaa et seq.).

## 4 **TITLE II—INVESTMENT** 5 **COMPANY ACT AMENDMENTS**

### 6 **SEC. 201. SHORT TITLE.**

7 This title may be cited as the “Investment Company  
 8 Act Amendments of 1996”.

### 9 **SEC. 202. FUNDS OF FUNDS.**

10 Section 12(d)(1) of the Investment Company Act of  
 11 1940 (15 U.S.C. 80a–12(d)(1)) is amended—

12 (1) in subparagraph (E)(iii)—

13 (A) by striking “in the event such invest-  
 14 ment company is not a registered investment  
 15 company,”; and

16 (B) by inserting “in the event such invest-  
 17 ment company is not a registered investment  
 18 company” after “(bb)”;

19 (2) by redesignating existing subparagraphs (G)  
 20 and (H) as subparagraphs (H) and (I), respectively;

21 (3) by inserting after subparagraph (F) the fol-  
 22 lowing new subparagraph:

23 “(G) The provisions of this paragraph (1) shall not  
 24 apply to securities of a registered open-end company (the  
 25 ‘acquired company’) purchased or otherwise acquired by

1 a registered open-end company (the ‘acquiring company’)  
2 if—

3 “(i) the acquired company and the acquiring  
4 company are part of the same group of investment  
5 companies;

6 “(ii) the securities of the acquired company, se-  
7 curities of other registered open-end companies that  
8 are part of the same group of investment companies,  
9 Government securities, and short-term paper are the  
10 only investments held by the acquiring company;

11 “(iii)(I) the acquiring company does not pay  
12 and is not assessed any charges or fees for distribu-  
13 tion-related activities with respect to securities of the  
14 acquired company unless the acquiring company  
15 does not charge a sales load or other fees or charges  
16 for distribution-related activities; or

17 “(II) any sales loads and other distribution-re-  
18 lated fees charged with respect to securities of the  
19 acquiring company, when aggregated with any sales  
20 load and distribution-related fees paid by the acquir-  
21 ing company with respect to securities of the ac-  
22 quired company, are not excessive under rules adopt-  
23 ed pursuant to either section 22(b) or section 22(c)  
24 of this title by a securities association registered

1 under section 15A of the Securities Exchange Act of  
2 1934 or the Commission;

3 “(iv) the acquired company shall have a fun-  
4 damental policy that prohibits it from acquiring any  
5 securities of registered open-end companies in reli-  
6 ance on this subparagraph or subparagraph (F) of  
7 this subsection; and

8 “(v) such acquisition is not in contravention of  
9 such rules and regulations as the Commission may  
10 from time to time prescribe with respect to acquisi-  
11 tions in accordance with this subparagraph as nec-  
12 essary and appropriate for the protection of inves-  
13 tors.

14 For purposes of this subparagraph, a ‘group of investment  
15 companies’ shall mean any two or more registered invest-  
16 ment companies that hold themselves out to investors as  
17 related companies for purposes of investment and investor  
18 services.”; and

19 (4) adding at the end the following new sub-  
20 paragraph:

21 “(J) The Commission, by rules and regulations upon  
22 its own motion or by order upon application, may condi-  
23 tionally or unconditionally exempt any person, security, or  
24 transaction, or any class or classes of persons, securities,  
25 or transactions from any provisions of this subsection, if

1 and to the extent such exemption is consistent with the  
 2 public interest and the protection of investors.”.

3 **SEC. 203. REGISTRATION OF SECURITIES.**

4 (a) AMENDMENTS TO REGISTRATION STATE-  
 5 MENTS.—Section 24(e) of the Investment Company Act  
 6 of 1940 (15 U.S.C. 80a–24(e)) is amended—

7 (1) by striking paragraphs (1) and (2);

8 (2) by redesignating paragraph (3) as sub-  
 9 section (e); and

10 (3) in subsection (e) (as so redesignated) by  
 11 striking “pursuant to this subsection or otherwise”.

12 (b) REGISTRATION OF INDEFINITE AMOUNT OF SE-  
 13 CURITIES.—Section 24(f) of the Investment Company Act  
 14 of 1940 (15 U.S.C. 80a–24(f)) is amended to read as fol-  
 15 lows:

16 “(f) REGISTRATION OF INDEFINITE AMOUNT OF SE-  
 17 CURITIES.—

18 “(1) INDEFINITE REGISTRATION OF SECURI-  
 19 TIES.—Upon the effectiveness of its registration  
 20 statement under the Securities Act of 1933, a face-  
 21 amount certificate company, open-end management  
 22 company, or unit investment trust shall be deemed  
 23 to have registered an indefinite amount of securities.

24 “(2) PAYMENT OF REGISTRATION FEES.—With-  
 25 in 90 days after the end of the company’s fiscal

1 year, the company shall pay a registration fee to the  
2 Commission, calculated in the manner specified in  
3 section 6(b) of the Securities Act of 1933, based on  
4 the aggregate sales price for which its securities (in-  
5 cluding, for this purpose, all securities issued pursu-  
6 ant to a dividend reinvestment plan) were sold pur-  
7 suant to a registration of an indefinite amount of se-  
8 curities under this subsection during the company's  
9 previous fiscal year reduced by—

10 “(A) the aggregate redemption or repur-  
11 chase price of the securities of the company  
12 during that year, and

13 “(B) the aggregate redemption or repur-  
14 chase price of the securities of the company  
15 during any prior fiscal year ending not more  
16 than 1 year before the date of enactment of the  
17 Investment Company Act Amendments of 1996  
18 that were not used previously by the company  
19 to reduce fees payable under this section.

20 “(3) INTEREST DUE ON LATE PAYMENT.—A  
21 company paying the fee or any portion thereof more  
22 than 90 days after the end of the company's fiscal  
23 year shall pay to the Commission interest on unpaid  
24 amounts, compounded daily, at the underpayment  
25 rate established by the Secretary of the Treasury



1       pursuant to section 3717(a) of title 31, United  
2       States Code. The payment of interest pursuant to  
3       the requirement of this paragraph shall not preclude  
4       the Commission from bringing an action to enforce  
5       the requirements of paragraph (2) of this subsection.

6               “(4) RULEMAKING AUTHORITY.—The Commis-  
7       sion may adopt rules and regulations to implement  
8       the provisions of this subsection.”.

9       (c) EFFECTIVE DATE.—The amendments made by  
10      this section shall be effective 6 months after the date of  
11      enactment of this Act or on such earlier date as the Com-  
12      mission may specify by rule.

13      **SEC. 204. INVESTMENT COMPANY ADVERTISING PROSPEC-**  
14                                      **TUS.**

15      Section 24 of the Investment Company Act of 1940  
16      (15 U.S.C. 80a–24) is amended by adding at the end the  
17      following new subsection:

18               “(g) In addition to the prospectuses permitted or re-  
19      quired in section 10 of the Securities Act of 1933, the  
20      Commission shall permit, by rules or regulations deemed  
21      necessary or appropriate in the public interest or for the  
22      protection of investors, the use of a prospectus for the pur-  
23      poses of section 5(b)(1) of such Act with respect to securi-  
24      ties issued by a registered investment company. Such a  
25      prospectus, which may include information the substance

1 of which is not included in the prospectus specified in sec-  
 2 tion 10(a) of the Securities Act of 1933, shall be deemed  
 3 to be permitted by section 10(b) of such Act.”.

4 **SEC. 205. VARIABLE INSURANCE CONTRACTS.**

5 (a) UNIT INVESTMENT TRUST TREATMENT.—Sec-  
 6 tion 26 of the Investment Company Act of 1940 (15  
 7 U.S.C. 80a–26) is amended by adding at the end the fol-  
 8 lowing new subsection:

9 “(e)(1) Subsection (a) shall not apply to any reg-  
 10 istered separate account funding variable insurance con-  
 11 tracts, or to the sponsoring insurance company and prin-  
 12 cipal underwriter of such account.

13 “(2) It shall be unlawful for any registered separate  
 14 account funding variable insurance contracts, or for the  
 15 sponsoring insurance company of such account, to sell any  
 16 such contract, unless—

17 “(A) the fees and charges deducted under the  
 18 contract in the aggregate are reasonable in relation  
 19 to the services rendered, the expenses expected to be  
 20 incurred, and the risks assumed by the insurance  
 21 company, and the insurance company so represents  
 22 in the registration statement for the contract; and

23 “(B) the insurance company (i) complies with  
 24 all other applicable provisions of this section as if it  
 25 were a trustee or custodian of the registered sepa-

1 rate account; (ii) files with the insurance regulatory  
2 authority of a State an annual statement of its fi-  
3 nancial condition, which most recent statement indi-  
4 cates that it has a combined capital and surplus, if  
5 a stock company, or an unassigned surplus, if a mu-  
6 tual company, of not less than \$1,000,000, or such  
7 other amount as the Commission may from time to  
8 time prescribe by rule as necessary or appropriate in  
9 the public interest or for the protection of investors;  
10 and (iii) together with its registered separate ac-  
11 counts, is supervised and examined periodically by  
12 the insurance authority of such State.

13 “(3) The Commission may adopt such rules and regu-  
14 lations under paragraph (2)(A) as it determines are nec-  
15 essary or appropriate in the public interest or for the pro-  
16 tection of investors. For the purposes of such paragraph,  
17 the fees and charges deducted under the contract shall in-  
18 clude all fees and charges imposed for any purpose and  
19 in any manner.”.

20 (b) PERIODIC PAYMENT PLAN TREATMENT.—Sec-  
21 tion 27 of such Act (15 U.S.C. 80a–27) is amended by  
22 adding at the end the following new subsection:

23 “(i)(1) This section shall not apply to any registered  
24 separate account funding variable insurance contracts, or  
25 to the sponsoring insurance company and principal under-

1 writer of such account, except as provided in paragraph  
2 (2).

3 “(2) It shall be unlawful for any registered separate  
4 account funding variable insurance contracts, or for the  
5 sponsoring insurance company of such account, to sell any  
6 such contract unless (A) such contract is a redeemable se-  
7 curity, and (B) the insurance company complies with sec-  
8 tion 26(e) and any rules or regulations adopted by the  
9 Commission thereunder.”.

10 **SEC. 206. REPORTS TO THE COMMISSION AND SHAREHOLD-**  
11 **ERS.**

12 Section 30 of the Investment Company Act of 1940  
13 (15 U.S.C. 80a–29) is amended—

14 (1) by striking paragraph (1) of subsection (b)  
15 and inserting the following:

16 “(1) such information, documents, and reports  
17 (other than financial statements), as the Commis-  
18 sion may require to keep reasonably current the in-  
19 formation and documents contained in the registra-  
20 tion statement of such company filed under this  
21 title; and”;

22 (2) by redesignating subsections (c), (d), (e),  
23 and (f) as subsections (d), (e), (g), and (h), respec-  
24 tively;

1           (3) by inserting after subsection (b) the follow-  
2           ing new subsection:

3           “(c) In exercising its authority under subsection  
4           (b)(1) to require the filing of information, documents, and  
5           reports on a basis more frequently than semi-annually, the  
6           Commission shall take such steps as it deems necessary  
7           or appropriate, consistent with the public interest and the  
8           protection of investors, to avoid unnecessary reporting by,  
9           and minimize the compliance burdens on, registered in-  
10          vestment companies and their affiliated persons. Such  
11          steps shall include considering and requesting public com-  
12          ment on—

13                 “(1) feasible alternatives that minimize the re-  
14                 porting burdens on registered investment companies;  
15                 and

16                 “(2) the utility of such information, documents,  
17                 and reports to the Commission in relation to the  
18                 costs to registered investment companies and their  
19                 affiliated persons of providing such information, doc-  
20                 uments, and reports.”;

21           (4) by inserting after subsection (e) (as redesign-  
22           nated by paragraph (2) of this section) the following  
23           new subsection:

24           “(f) The Commission may by rule require that semi-  
25          annual reports containing the information set forth in sub-

1 section (e) include such other information as the Commis-  
 2 sion deems necessary or appropriate in the public interest  
 3 or for the protection of investors. In exercising its author-  
 4 ity under this subsection, the Commission shall take such  
 5 steps as it deems necessary or appropriate, consistent with  
 6 the public interest and the protection of investors, to avoid  
 7 unnecessary reporting by, and minimize the compliance  
 8 burdens on, registered investment companies and their af-  
 9 filiated persons. Such steps shall include considering and  
 10 requesting public comment on—

11           “(1) feasible alternatives that minimize the re-  
 12       porting burdens on registered investment companies;  
 13       and

14           “(2) the utility of such information to share-  
 15       holders in relation to the costs to registered invest-  
 16       ment companies and their affiliated persons of pro-  
 17       viding such information to shareholders.”; and

18           (5) in subsection (g) (as so redesignated) by  
 19       striking “subsections (a) and (d)” and inserting  
 20       “subsections (a) and (e)”.

21 **SEC. 207. BOOKS, RECORDS AND INSPECTIONS.**

22       Section 31 of the Investment Company Act of 1940  
 23 (15 U.S.C. 80a–30) is amended—

24           (1) by striking subsections (a) and (b) and in-  
 25       serting the following:

1       “(a) Every registered investment company, and every  
2 underwriter, broker, dealer, or investment adviser that is  
3 a majority-owned subsidiary of such a company, shall  
4 maintain and preserve such records (as defined in section  
5 3(a)(37) of the Securities Exchange Act of 1934) for such  
6 period or periods as the Commission, by rules and regula-  
7 tions, may prescribe as necessary or appropriate in the  
8 public interest or for the protection of investors. Every in-  
9 vestment adviser not a majority-owned subsidiary of, and  
10 every depositor of any registered investment company, and  
11 every principal underwriter for any registered investment  
12 company other than a closed-end company, shall maintain  
13 and preserve for such period or periods as the Commission  
14 shall prescribe by rules and regulations, such records as  
15 are necessary or appropriate to record such person’s trans-  
16 actions with such registered company. In exercising its au-  
17 thority under this subsection, the Commission shall take  
18 such steps as it deems necessary or appropriate, consistent  
19 with the public interest and for the protection of investors,  
20 to avoid unnecessary recordkeeping by, and minimize the  
21 compliance burden on, persons required to maintain  
22 records under this subsection (hereinafter in this section  
23 referred to as ‘subject persons’). Such steps shall include  
24 considering, and requesting public comment on—

1           “(1) feasible alternatives that minimize the rec-  
2           ordkeeping burdens on subject persons;

3           “(2) the necessity of such records in view of the  
4           public benefits derived from the independent scru-  
5           tiny of such records through Commission examina-  
6           tion;

7           “(3) the costs associated with maintaining the  
8           information that would be required to be reflected in  
9           such records; and

10          “(4) the effects that a proposed recordkeeping  
11          requirement would have on internal compliance poli-  
12          cies and procedures.

13          “(b) All records required to be maintained and pre-  
14          served in accordance with subsection (a) of this section  
15          shall be subject at any time and from time to time to such  
16          reasonable periodic, special, and other examinations by the  
17          Commission, or any member or representative thereof, as  
18          the Commission may prescribe. For purposes of such ex-  
19          aminations, any subject person shall make available to the  
20          Commission or its representatives any copies or extracts  
21          from such records as may be prepared without undue ef-  
22          fort, expense, or delay as the Commission or its represent-  
23          atives may reasonably request. The Commission shall exer-  
24          cise its authority under this subsection with due regard  
25          for the benefits of internal compliance policies and proce-



1 dures and the effective implementation and operation  
2 thereof.”;

3           (2) by redesignating existing subsections (c)  
4           and (d) as subsections (e) and (f), respectively; and  
5           (3) by inserting after subsection (b) the follow-  
6           ing new subsections:

7           “(c) Notwithstanding any other provision of law, the  
8           Commission shall not be compelled to disclose any internal  
9           compliance or audit records, or information contained  
10          therein, provided to the Commission under this section.  
11          Nothing in this subsection shall authorize the Commission  
12          to withhold information from Congress or prevent the  
13          Commission from complying with a request for informa-  
14          tion from any other Federal department or agency re-  
15          questing the information for purposes within the scope of  
16          its jurisdiction, or complying with an order of a court of  
17          the United States in an action brought by the United  
18          States or the Commission. For purposes of section 552  
19          of title 5, United States Code, this section shall be consid-  
20          ered a statute described in subsection (b)(3)(B) of such  
21          section 552.

22          “(d) For purposes of this section—

23                 “(1) ‘internal compliance policies and proce-  
24                 dures’ means policies and procedures designed by

1 subject persons to promote compliance with the Fed-  
2 eral securities laws; and

3 “(2) ‘internal compliance and audit record’  
4 means any record prepared by a subject person in  
5 accordance with internal compliance policies and  
6 procedures.”.

7 **SEC. 208. INVESTMENT COMPANY NAMES.**

8 Section 35(d) of the Investment Company Act of  
9 1940 (15 U.S.C. 80a–34(d)) is amended to read as fol-  
10 lows:

11 “(d) It shall be unlawful for any registered invest-  
12 ment company to adopt as a part of the name or title of  
13 such company, or of any securities of which it is the issuer,  
14 any word or words that the Commission finds are materi-  
15 ally deceptive or misleading. The Commission is author-  
16 ized, by rule, regulation, or order, to define such names  
17 or titles as are materially deceptive or misleading.”.

18 **SEC. 209. EXCEPTIONS FROM DEFINITION OF INVESTMENT**  
19 **COMPANY.**

20 (a) AMENDMENTS.—Section 3(c) of the Investment  
21 Company Act of 1940 (15 U.S.C. 80a–3(c)) is amended—

22 (1) in paragraph (1), by inserting after the first  
23 sentence the following new sentence: “Such issuer  
24 nonetheless is deemed to be an investment company  
25 for purposes of the limitations set forth in section

1 12(d)(1)(A)(i) and (B)(i) governing the purchase or  
2 other acquisition by such issuer of any security is-  
3 sued by any registered investment company and the  
4 sale of any security issued by any registered open-  
5 end company to any such issuer.”;

6 (2) in subparagraph (A) of paragraph (1)—

7 (A) by inserting after “issuer,” the first  
8 place it appears the following: “and is or, but  
9 for the exception in this paragraph or para-  
10 graph (7), would be an investment company,”;  
11 and

12 (B) by striking all that follows “(other  
13 than short-term paper)” and inserting a period;  
14 (3) in paragraph (2)—

15 (A) by striking “and acting as broker,”  
16 and inserting “acting as broker, and acting as  
17 market intermediary,”; and

18 (B) by adding at the end of such para-  
19 graph the following new sentences: “For the  
20 purposes of this paragraph, the term ‘market  
21 intermediary’ means any person that regularly  
22 holds itself out as being willing contempora-  
23 neously to engage in, and is regularly engaged  
24 in the business of entering into, transactions on  
25 both sides of the market for a financial contract

1 or one or more such financial contracts. For  
2 purposes of the preceding sentence, the term ‘fi-  
3 nancial contract’ means any arrangement that  
4 (A) takes the form of an individually negotiated  
5 contract, agreement, or option to buy, sell, lend,  
6 swap, or repurchase, or other similar individ-  
7 ually negotiated transaction commonly entered  
8 into by participants in the financial markets;  
9 (B) is in respect of securities, commodities, cur-  
10 rencies, interest or other rates, other measures  
11 of value, or any other financial or economic in-  
12 terest similar in purpose or function to any of  
13 the foregoing; and (C) is entered into in re-  
14 sponse to a request from a counterparty for a  
15 quotation or is otherwise entered into and  
16 structured to accommodate the objectives of the  
17 counterparty to such arrangement.”; and

18 (4) by striking paragraph (7) and inserting the  
19 following:

20 “(7)(A) Any issuer (i) whose outstanding secu-  
21 rities are owned exclusively by persons who, at the  
22 time of acquisition of such securities, are qualified  
23 purchasers, and (ii) who is not making and does not  
24 presently propose to make a public offering of such  
25 securities. Securities that are owned by persons who

1 received the securities from a qualified purchaser as  
2 a gift or bequest, or where the transfer was caused  
3 by legal separation, divorce, death, or other involun-  
4 tary event, shall be deemed to be owned by a quali-  
5 fied purchaser, subject to such rules, regulations,  
6 and orders as the Commission may prescribe as nec-  
7 essary or appropriate in the public interest or for  
8 the protection of investors.

9 “(B) Notwithstanding subparagraph (A), an is-  
10 suer is within the exception provided by this para-  
11 graph if—

12 “(i) in addition to qualified purchasers, its  
13 outstanding securities are beneficially owned by  
14 not more than 100 persons who are not quali-  
15 fied purchasers if (I) such persons acquired  
16 such securities on or before December 31,  
17 1995, and (II) at the time such securities were  
18 acquired by such persons, the issuer was ex-  
19 cepted by paragraph (1) of this subsection; and

20 “(ii) prior to availing itself of the exception  
21 provided by this paragraph—

22 “(I) such issuer has disclosed to such  
23 persons that future investors will be lim-  
24 ited to qualified purchasers, and that own-

1                   ership in such issuer is no longer limited to  
2                   not more than 100 persons, and

3                   “(II) concurrently with or after such  
4                   disclosure, such issuer has provided such  
5                   persons with a reasonable opportunity to  
6                   redeem any part or all of their interests in  
7                   the issuer for their proportionate share of  
8                   the issuer’s current net assets, or the cash  
9                   equivalent thereof.

10                  “(C) An issuer that is excepted under this para-  
11                  graph shall nonetheless be deemed to be an invest-  
12                  ment company for purposes of the limitations set  
13                  forth in section 12(d)(1)(A)(i) and (B)(i) governing  
14                  the purchase or other acquisition by such issuer of  
15                  any security issued by any registered investment  
16                  company and the sale of any security issued by any  
17                  registered open-end company to any such issuer.

18                  “(D) For purposes of determining compliance  
19                  with this paragraph and paragraph (1) of this sub-  
20                  section, an issuer that is otherwise excepted under  
21                  this paragraph and an issuer that is otherwise ex-  
22                  cepted under paragraph (1) shall not be treated by  
23                  the Commission as being a single issuer for purposes  
24                  of determining whether the outstanding securities of  
25                  the issuer excepted under paragraph (1) are bene-

1        ficially owned by not more than 100 persons or  
2        whether the outstanding securities of the issuer ex-  
3        cepted under this paragraph are owned by persons  
4        that are not qualified purchasers. Nothing in this  
5        provision shall be deemed to establish that a person  
6        is a bona fide qualified purchaser for purposes of  
7        this paragraph or a bona fide beneficial owner for  
8        purposes of paragraph (1) of this subsection.”.

9        (b) DEFINITION OF QUALIFIED PURCHASER.—Sec-  
10      tion 2(a) of the Investment Company Act of 1940 (15  
11      U.S.C. 80a–2(a)) is amended by inserting after paragraph  
12      (50) the following new paragraph:

13            “(51) ‘Qualified purchaser’ means—

14            “(A) any natural person who owns at least  
15            \$10,000,000 in securities of issuers that are not  
16            controlled by such person, except that securities  
17            of such a controlled issuer may be counted to-  
18            ward such amount if such issuer is, or but for  
19            the exception in paragraph (1) or (7) of section  
20            3(e) would be, an investment company;

21            “(B) any trust not formed for the specific  
22            purpose of acquiring the securities offered, as  
23            to which the trustee or other person authorized  
24            to make decisions with respect to the trust, and  
25            each settlor or other person who has contrib-

1           uted assets to the trust, is a person described  
2           in subparagraph (A) or (C); or

3           “(C) any person, acting for its own ac-  
4           count or the accounts of other qualified pur-  
5           chasers, who in the aggregate owns and invests  
6           on a discretionary basis, not less than  
7           \$100,000,000 in securities of issuers that are  
8           not affiliated persons (as defined in paragraph  
9           (3)(C) of this subsection) of such person, except  
10          that securities of such an affiliated person is-  
11          suer may be counted toward such amount if  
12          such issuer is, or but for the exception in para-  
13          graph (1) or (7) of section 3(c) would be, an in-  
14          vestment company.

15          The Commission may adopt such rules and regula-  
16          tions governing the persons and trusts specified in  
17          subparagraphs (A), (B), and (C) of this paragraph  
18          as it determines are necessary or appropriate in the  
19          public interest and for the protection of investors.”.

20          (c) CONFORMING AMENDMENT.—The last sentence  
21          of section 3(a) of the Investment Company Act of 1940  
22          (15 U.S.C. 80a–3(a)) is amended—

23                 (1) by inserting “(i)” after “of the owner”; and

24                 (2) by inserting before the period the following:

25                 “, and (ii) which are not relying on the exception



1 from the definition of investment company in sub-  
2 section (c)(1) or (c)(7) of this section”.

3 (d) RULEMAKING REQUIRED.—

4 (1) IMPLEMENTATION OF SECTION 3(c)(1)(B).—

5 Within one year after the date of enactment of this  
6 Act, the Commission shall prescribe rules to imple-  
7 ment the requirements of section 3(c)(1)(B) of the  
8 Investment Company Act of 1940 (15 U.S.C. 80a–  
9 3(c)(1)(B)).

10 (2) EMPLOYEE EXCEPTION.—Within one year  
11 after the date of enactment of this Act, the Commis-  
12 sion shall prescribe rules pursuant to its authority  
13 under section 6 of the Investment Company Act of  
14 1940 (15 U.S.C. 80a–6) to permit the ownership by  
15 knowledgeable employees of an issuer or an affiliated  
16 person of the issuer of the securities of that issuer  
17 or affiliated person without loss of the issuer’s ex-  
18 ception under section 3(c)(1) or 3(c)(7) of such Act  
19 from treatment as an investment company under  
20 such Act.

1 **TITLE III—SECURITIES AND EX-**  
2 **CHANGE COMMISSION AU-**  
3 **THORIZATION**

4 **SEC. 301. SHORT TITLE.**

5 This title may be cited as the “Securities and Ex-  
6 change Commission Authorization Act of 1996”.

7 **SEC. 302. PURPOSES.**

8 The purposes of this title are—

9 (1) to authorize appropriations for the Securi-  
10 ties and Exchange Commission for fiscal year 1997;  
11 and

12 (2) to reduce over time the rates of fees  
13 charged under the Federal securities laws.

14 **SEC. 303. AUTHORIZATION OF APPROPRIATIONS.**

15 Section 35 of the Securities Exchange Act of 1934  
16 is amended to read as follows:

17 **“SEC. 35. AUTHORIZATION OF APPROPRIATIONS.**

18 “There are authorized to be appropriated to carry out  
19 the functions, powers, and duties of the Commission  
20 \$317,000,000 for fiscal year 1997.”.

21 **SEC. 304. REGISTRATION FEES.**

22 Section 6(b) of the Securities Act of 1933 (15 U.S.C.  
23 77f(b)) is amended to read as follows:

24 “(b) REGISTRATION FEE.—

1           “(1) RECOVERY OF COST OF SERVICES.—The  
2       Commission shall, in accordance with this sub-  
3       section, collect registration fees that are designed to  
4       recover the costs to the government of the securities  
5       registration process, and costs related to such proc-  
6       ess, including enforcement activities, policy and rule-  
7       making activities, administration, legal services, and  
8       international regulatory activities.

9           “(2) FEE PAYMENT REQUIRED.—At the time of  
10      filing a registration statement, the applicant shall  
11      pay to the Commission a fee that shall be equal to  
12      the sum of the amounts (if any) determined under  
13      the rates established by paragraphs (3) and (4). The  
14      Commission shall publish in the Federal Register  
15      notices of the fee rates applicable under this section  
16      for each fiscal year. In no case shall the fee required  
17      by this subsection be less than \$200, except that  
18      during fiscal year 2002 or any succeeding fiscal year  
19      such minimum fee shall be \$182.

20          “(3) GENERAL REVENUE FEES.—The rate de-  
21      termined under this paragraph is a rate equal to  
22      \$200 for each \$1,000,000 of the maximum aggre-  
23      gate price at which such securities are proposed to  
24      be offered, except that during fiscal year 2002 and  
25      any succeeding fiscal year such rate is equal to \$182

1 for each \$1,000,000 of the maximum aggregate  
2 price at which such securities are proposed to be of-  
3 fered. Fees collected during any fiscal year pursuant  
4 to this paragraph shall be deposited and credited as  
5 general revenues of the Treasury.

6 “(4) OFFSETTING COLLECTION FEES.—

7 “(A) IN GENERAL.—Except as provided in  
8 subparagraphs (B) and (C), the rate deter-  
9 mined under this paragraph is a rate equal to  
10 the following amount for each \$1,000,000 of  
11 the maximum aggregate price at which such se-  
12 curities are proposed to be offered:

13 “(i) \$103 during fiscal year 1997;

14 “(ii) \$70 during fiscal year 1998;

15 “(iii) \$38 during fiscal year 1999;

16 “(iv) \$17 during fiscal year 2000; and

17 “(v) \$0 during fiscal year 2001 or any  
18 succeeding fiscal year.

19 “(B) LIMITATION; DEPOSIT.—Except as  
20 provided in subparagraph (C), no amounts shall  
21 be collected pursuant to this paragraph (4) for  
22 any fiscal year except to the extent provided in  
23 advance in appropriations acts. Fees collected  
24 during any fiscal year pursuant to this para-  
25 graph shall be deposited and credited as offset-

1           ting collections in accordance with appropria-  
2           tions Acts.

3           “(C) LAPSE OF APPROPRIATIONS.—If on  
4           the first day of a fiscal year a regular appro-  
5           piation to the Commission has not been en-  
6           acted, the Commission shall continue to collect  
7           fees (as offsetting collections) under this para-  
8           graph at the rate in effect during the preceding  
9           fiscal year, until such a regular appropriation is  
10          enacted.”.

11 **SEC. 305. TRANSACTION FEES.**

12          (a) AMENDMENT.—Section 31 of the Securities Ex-  
13          change Act of 1934 (15 U.S.C. 78ee) is amended to read  
14          as follows:

15 **“SEC. 31. TRANSACTION FEES.**

16          “(a) RECOVERY OF COST OF SERVICES.—The Com-  
17          mission shall, in accordance with this subsection, collect  
18          transaction fees that are designed to recover the costs to  
19          the Government of the supervision and regulation of secu-  
20          rities markets and securities professionals, and costs relat-  
21          ed to such supervision and regulation, including enforce-  
22          ment activities, policy and rulemaking activities, adminis-  
23          tration, legal services, and international regulatory activi-  
24          ties.

1       “(b) EXCHANGE-TRADED SECURITIES.—Every na-  
2 tional securities exchange shall pay to the Commission a  
3 fee at a rate equal to \$33 for each \$1,000,000 of the ag-  
4 gregate dollar amount of sales of securities (other than  
5 bonds, debentures, and other evidences of indebtedness)  
6 transacted on such national securities exchange, except  
7 that for fiscal year 2002 or any succeeding fiscal year such  
8 rate shall be equal to \$25 for each \$1,000,000 of such  
9 aggregate dollar amount of sales. Fees collected pursuant  
10 to this subsection shall be deposited and collected as gen-  
11 eral revenue of the Treasury.

12       “(c) OFF-EXCHANGE-TRADES OF EXCHANGE REG-  
13 ISTERED SECURITIES.—Every national securities associa-  
14 tion shall pay to the Commission a fee at a rate equal  
15 \$33 for each \$1,000,000 of the aggregate dollar amount  
16 of sales transacted by or through any member of such as-  
17 sociation otherwise than on a national securities exchange  
18 of securities registered on such an exchange (other than  
19 bonds, debentures, and other evidences of indebtedness),  
20 except that for fiscal year 2002 or any succeeding fiscal  
21 year such rate shall be equal to \$25 for each \$1,000,000  
22 of such aggregate dollar amount of sales. Fees collected  
23 pursuant to this subsection shall be deposited and col-  
24 lected as general revenue of the Treasury.

1       “(d) OFF-EXCHANGE-TRADES OF LAST-SALE-RE-  
2   PORTED SECURITIES.—

3               “(1) COVERED TRANSACTIONS.—Every national  
4       securities association shall pay to the Commission a  
5       fee at a rate equal to the dollar amount determined  
6       under paragraph (2) for each \$1,000,000 of the ag-  
7       gregate dollar amount of sales transacted by or  
8       through any member of such association otherwise  
9       than on a national securities exchange of securities  
10      (other than bonds, debentures, and other evidences  
11      of indebtedness) subject to prompt last sale report-  
12      ing pursuant to the rules of the Commission or a  
13      registered national securities association, excluding  
14      any sales for which a fee is paid under subsection  
15      (c).

16              “(2) FEE RATES.—Except as provided in para-  
17      graph (4), the dollar amount determined under this  
18      paragraph is—

19                      “(A) \$12 for fiscal year 1997;

20                      “(B) \$14 for fiscal year 1998;

21                      “(C) \$17 for fiscal year 1999;

22                      “(D) \$18 for fiscal year 2000;

23                      “(E) \$20 for fiscal year 2001; and

24                      “(F) \$25 for fiscal year 2002 or for any  
25      succeeding fiscal year.

1           “(3) LIMITATION; DEPOSIT OF FEES.—Except  
2           as provided in paragraph (4), no amounts shall be  
3           collected pursuant to this subsection (d) for any fis-  
4           cal year beginning before October 1, 2001, except to  
5           the extent provided in advance in appropriations  
6           Acts. Fees collected during any such fiscal year pur-  
7           suant to this subsection shall be deposited and cred-  
8           ited as offsetting collections to the account providing  
9           appropriations to the Commission, except that any  
10          amounts in excess of the following amounts (and any  
11          amount collected for fiscal years beginning on or  
12          after October 1, 2001) shall be deposited and cred-  
13          ited as general revenues of the Treasury:

14                 “(A) \$20,000,000 for fiscal year 1997;  
15                 “(B) \$26,000,000 for fiscal year 1998;  
16                 “(C) \$32,000,000 for fiscal year 1999;  
17                 “(D) \$32,000,000 for fiscal year 2000;  
18                 “(E) \$32,000,000 for fiscal year 2001; and  
19                 “(F) \$0 for fiscal year 2002 and any suc-  
20          ceeding fiscal year.

21           “(4) LAPSE OF APPROPRIATIONS.—If on the  
22          first day of a fiscal year a regular appropriation to  
23          the Commission has not been enacted, the Commis-  
24          sion shall continue to collect fees (as offsetting col-  
25          lections) under this subsection at the rate in effect



1       during the preceding fiscal year, until such a regular  
2       appropriation is enacted.

3       “(e) DATES FOR PAYMENT OF FEES.—The fees re-  
4       quired by subsections (b), (c), and (d) of this section shall  
5       be paid—

6               “(1) on or before March 15, with respect to  
7       transactions and sales occurring during the period  
8       beginning on the preceding September 1 and ending  
9       at the close of the preceding December 31; and

10              “(2) on or before September 30, with respect to  
11       transactions and sales occurring during the period  
12       beginning on the preceding January 1 and ending at  
13       the close of the preceding August 31.

14       “(f) EXEMPTIONS.—The Commission, by rule, may  
15       exempt any sale of securities or any class of sales of secu-  
16       rities from any fee imposed by this section, if the Commis-  
17       sion finds that such exemption is consistent with the pub-  
18       lic interest, the equal regulation of markets and brokers  
19       and dealers, and the development of a national market  
20       system.

21       “(g) PUBLICATION.—The Commission shall publish  
22       in the Federal Register notices of the fee rates applicable  
23       under this section for each fiscal year.”.

24       (b) EFFECTIVE DATES; TRANSITION.—

1           (1) IN GENERAL.—Except as provided in para-  
2       graph (2), the amendment made by subsection (a)  
3       shall apply with respect to transactions in securities  
4       that occur on or after January 1, 1997.

5           (2) OFF-EXCHANGE TRADES OF LAST SALE RE-  
6       PORTED TRANSACTIONS.—The amendment made by  
7       subsection (a) shall apply with respect to trans-  
8       actions described in section 31(d)(1) of the Securi-  
9       ties Exchange Act of 1934 (as amended by sub-  
10      section (a) of this section) that occur on or after  
11      September 1, 1996.

12          (3) RULE OF CONSTRUCTION.—Nothing in this  
13      subsection shall be construed to affect the obligation  
14      of national securities exchanges and registered bro-  
15      kers and dealers under section 31 of the Securities  
16      Exchange Act of 1934 (15 U.S.C. 78ee) as in effect  
17      prior to the amendment made by subsection (a) to  
18      make the payments required by such section on  
19      March 15, 1997.

20   **SEC. 306. TIME FOR PAYMENT.**

21      Section 4(e) of the Securities Exchange Act of 1934  
22   (15 U.S.C. 78d(e)) is amended by inserting before the pe-  
23   riod at the end thereof the following: “and the Commission  
24   may also specify the time that such fee shall be determined

1 and paid relative to the filing of any statement or docu-  
2 ment with the Commission”.

3 **SEC. 307. SENSE OF THE CONGRESS CONCERNING FEES.**

4 It is the sense of the Congress that—

- 5 (1) the fees authorized by the amendments  
6 made by this Act are in lieu of, and not in addition  
7 to, any fees that the Securities and Exchange Com-  
8 mission is authorized to impose or collect pursuant  
9 to section 9701 of title 31, United States Code; and  
10 (2) in order to maintain the competitiveness of  
11 United States securities markets relative to foreign  
12 markets, no fee should be assessed on transactions  
13 involving portfolios of equity securities taking place  
14 at times of day characterized by low volume and  
15 during non-traditional trading hours.

Passed the House of Representatives June 19, 1996.

Attest:

ROBIN H. CARLE,

*Clerk.*